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Due Date: January 13, 2003

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	David M. Siefert	Examiner:	Sue X. Lao
Serial No.:	08/813,714	Group Art Unit:	2151
Filed:	March 7, 1997	Docket:	6002.03
Title:	AUTOMATED RESOURCE MANAGEMENT SYSTEM		

**CERTIFICATE OF MAILING UNDER 37 CFR 1.10****'Express Mail' mailing label number: EV 171328494US****Date of Deposit: January 10, 2003**

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By: *Isabell Ogata*

Name: Isabell Ogata

**RECEIVED****JAN 15 2003****Technology Center 2100**Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

We are transmitting herewith the attached:

- ☒ Transmittal sheet, in duplicate, containing a Certificate of Mailing under 37 CFR 1.10.
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**Please consider this a PETITION FOR EXTENSION OF TIME for a sufficient number of months to enter these papers, if appropriate.****Please charge all requisite fees to Deposit Account No. 50-1673 of NCR Corporation (the assignee of the present application). A duplicate of this paper is enclosed.****GATES & COOPER LLP**Howard Hughes Center  
6701 Center Drive West, Suite 1050  
Los Angeles, CA 90045  
(310) 641-8797By: *George H. Gates*Name: George H. Gates  
Reg. No.: 33,500  
GHG/io

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Due Date: January 13, 2003

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of: )  
Inventor: David M. Siefert ) Examiner: Sue X. Lao  
Serial #: 09/813,714 ) Group Art Unit: 2151  
Filed: March 7, 1997 ) Appeal No.: \_\_\_\_\_  
Title: AUTOMATED RESOURCE )  
MANAGEMENT SYSTEM )

**BRIEF OF APPELLANT**

Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

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**JAN 15 2003**  
Technology Center 2100

In accordance with 37 C.F.R. §1.192, Appellant's attorney hereby submits the Appellant's Brief on Appeal from the final rejection in the above-identified application, in triplicate, as set forth in the Office Action dated August 13, 2002.

Please charge the amount of \$320.00 to cover the required fee for filing this Appeal Brief as set forth under 37 C.F.R. §1.17(c) to Deposit Account No. 50-1673 of NCR Corporation, the assignee of the present application. Also, please charge any additional fees or credit any overpayments to Deposit Account No. 50-1673.

**I. REAL PARTY IN INTEREST**

The real party in interest is NCR Corporation, the assignee of the present application.

**II. RELATED APPEALS AND INTERFERENCES**

There are no related appeals or interferences for the above-referenced patent application.

**III. STATUS OF CLAIMS**

Claims 15-22 are pending in the application.

Claim 15 was provisionally rejected under the judicially-created doctrine of double patenting as being unpatentable over claim 1 of U.S. Patent No. 5,699,526 in view of Pisello et al., U.S. Patent No. 5,495,607 (Pisello) and Miller et al., U.S. Patent No. 5,475,819 (Miller).

Claims 15-20 and 22 were rejected under 35 U.S.C. §103(a) as being unpatentable over Pisello et al., U.S. Patent No. 5,495,607 (Pisello) in view of Miller et al., U.S. Patent No. 5,475,819 (Miller).

Claim 21 was rejected under 35 U.S.C. §103(a) as being unpatentable over Pisello et al., U.S. Patent No. 5,495,607 (Pisello) in view of Miller et al., U.S. Patent No. 5,475,819 (Miller) as applied to claim 15 and in view of D. Terry et al., "Continuous Queries Over Append-Only Databases," ACM SIGMOD, pp. 321-330, 1992 (Terry).

#### IV. STATUS OF AMENDMENTS

No amendments have been made subsequent to the final rejections in the Office Action dated August 13, 2002.

#### V. SUMMARY OF THE INVENTION

Independent claim 15 is generally directed to a resource management system. A plurality of servers are grouped into interconnected regional servers and local servers, wherein the regional servers serve a region and hold one or more profiles for resources associated with the local servers within the region. The resources are classified as physical resources and soft resources, wherein the physical resources are not downloadable from the local servers and the soft resources are downloadable from the local servers. Each of the resources has at least one of the profiles associated therewith, wherein each of the profiles includes a description and a location of the associated resource, and wherein each of the profiles, when created, is assigned to a category. One or more user computers are interconnected with the regional and local servers, and include means for storing the profiles of the resources into one or more of the regional servers, means for searching the profiles stored in the regional servers by category, and means for requesting delivery of the resources associated with the local servers based on the searched profiles.

With regard to the claims, refer to the specification at page 6, line 22 through page 33, line 7, and in FIGS. 1-65.

## VI. ISSUES PRESENTED FOR REVIEW

1. Whether the Terminal Disclaimer and Certificate under 37 C.F.R. §3.73(b) were seasonably presented in order to overcome the provisional rejection of claim 15 under the judicially-created doctrine of double patenting over claim 1 of U.S. Patent No. 5,699,526 in view of Pisello et al., U.S. Patent No. 5,495,607 (Pisello) and Miller et al., U.S. Patent No. 5,475,819 (Miller).

2. Whether claims 15-20 and 22 are obvious under 35 U.S.C. §103(a) over Pisello et al., U.S. Patent No. 5,495,607 (Pisello) in view of Miller et al., U.S. Patent No. 5,475,819 (Miller).

3. Whether claim 21 is obvious under 35 U.S.C. §103(a) over Pisello et al., U.S. Patent No. 5,495,607 (Pisello) in view of Miller et al., U.S. Patent No. 5,475,819 (Miller) as applied to claim 15 and in view of D. Terry et al., "Continuous Queries Over Append-Only Databases," ACM SIGMOD, pp. 321-330, 1992 (Terry).

## VII. GROUPING OF CLAIMS

The rejected claims stand or fall together.

## VIII. ARGUMENTS

### A. The Double-Patenting Rejection

Claim 15 was provisionally rejected under the judicially-created doctrine of double patenting as being unpatentable over claim 1 of U.S. Patent No. 5,699,526 in view of Pisello et al., U.S. Patent No. 5,495,607 (Pisello) and Miller et al., U.S. Patent No. 5,475,819 (Miller).

A Terminal Disclaimer and Certificate under 37 C.F.R. §3.73(b) was included with the response under 37 C.F.R. §1.116 submitted on October 14, 2002, in order to overcome the double patenting rejection. However, an Advisory Action mailed by the Examiner on October 30, 2002 stated that the Terminal Disclaimer was not timely filed under M.P.E.P. §715.09.

Although left unstated, Appellant's attorney assumes this means that the Terminal Disclaimer and Certificate under 37 C.F.R. §3.73(b) were not entered into the application. Appellant's attorney notes that M.P.E.P. §715.09 is directed to the seasonable presentation of affidavits or declarations under 37 C.F.R. §1.131, not terminal disclaimers, and thus asserts that the refusal to enter the Terminal Disclaimer and Certificate under 37 C.F.R. §3.73(b) was

erroneous. Consequently, Appellant's attorney requests that the Board direct the Examiner to enter the Terminal Disclaimer and Certificate under 37 C.F.R. §3.73(b) in this application, in order to expedite resolution of this application and remove this issue from the appeal, per M.P.E.P. §1207.

B. The 35 U.S.C. §103 Rejections

Claims 15-20 and 22 were rejected under 35 U.S.C. §103(a) as being unpatentable over Pisello et al., U.S. Patent No. 5,495,607 (Pisello) in view of Miller. Claim 21 was rejected under 35 U.S.C. §103(a) as being unpatentable over Pisello et al., U.S. Patent No. 5,495,607 (Pisello) in view of Miller et al., U.S. Patent No. 5,475,819 (Miller) as applied to claim 15 and in view of Terry et al. (Terry).

Appellant's attorney respectfully traverses these rejections in view of the arguments presented below.

1. The Appellant's Invention

Appellant's independent claim 15 is generally directed to a resource management system. A plurality of servers are grouped into interconnected regional servers and local servers, wherein the regional servers serve a region and hold one or more profiles for resources associated with the local servers within the region. The resources are classified as physical resources and soft resources, wherein the physical resources are not downloadable from the local servers and the soft resources are downloadable from the local servers. Each of the resources has at least one of the profiles associated therewith, wherein each of the profiles includes a description and a location of the associated resource, and wherein each of the profiles, when created, is assigned to a category. One or more user computers are interconnected with the regional and local servers, and include means for storing the profiles of the resources into one or more of the regional servers, means for searching the profiles stored in the regional servers by category, and means for requesting delivery of the resources associated with the local servers based on the searched profiles.

2. The Pisello Reference

Pisello describes a network management system that includes a domain administrating server (DAS) that stores a virtual catalog representing an overview of all files distributively

stored across a network domain currently or in the past. The current and historical file information is used for assisting in auditing or locating files located anywhere in the domain. The current file information is used for assisting in transferring files across the domain. The domain administrating server (DAS) also includes a rule-base driven artificial administrator for monitoring and reacting to domain-wide alert reports and for detecting problematic trends in domain-wide performance based on information collected from the network domain.

### 3. The Miller Reference

Miller describes a distributed computing system using a data communications network that may have a number of service providers for a given service or remote procedure call. A client on the network makes reference to a name service to obtain the network address of one of these service providers. The name service maintains for each client or group of clients a configuration profile of the service providers in order to resolve the issue of selecting one of the several service providers when a request is made. A single configuration profile is a priority-ordered search list that maps from a service identifier (e.g., remote procedure call interface specification) into service provider (e.g., remote procedure call server) names. A configuration profile may include names for individual service providers, and/or named groups of service providers, and/or other configuration profiles. Configuration profiles are stored in a manner that makes them accessible throughout the distributed system, e.g., in the name service. Configuration profiles may be chained together by referencing other configuration profiles to provide a hierarchy of configuration profiles.

### 4. The Terry Reference

The Terry reference describes continuous queries to append-only databases. Where data is continuously added to a database, users can issue permanent queries and be notified whenever data matches the query.

### 5. Claims 15-22 Are Patentable Over The Cited References

Appellant's attorney respectfully submits that independent claim 15 is patentable over the references, because this claim contains limitations not found in the references. Specifically,

independent claim 15 recites a specific combination of structure and functions not shown by the references.

For example, Pisello describes a virtual catalog representing an overview of all files distributively stored across a network domain currently or in the past. However, the virtual catalog of Pisello only stores information on non-physical resources, i.e., files, as admitted by the Examiner.

Nonetheless, the Examiner asserts that Miller includes physical resources, e.g., hardware facilities such as printers and disks. However, nothing in Miller describes storing profiles for both soft and physical resources, wherein user computers search for profiles of the physical and software resources stored in the regional servers by category, and request delivery of both the physical and soft resources associated with the local servers based on the searched profiles. Certainly, nothing in Miller describes the delivery of its physical resources, e.g., hardware facilities such as printers and disks.

Thus, even when combined, Pisello and Miller do not teach Appellant's claimed invention. In fact, it would only be with hindsight for the Examiner to maintain that the combination of references renders obvious Appellant's independent claim 15.

The deficiencies of Pisello and Miller are not overcome by the Terry reference. Recall that Terry was only cited against dependent claim 21. Moreover, the Terry reference merely deals with continuous queries of a database.

Thus, taken individually or in any combination, the references do not teach or suggest that the resources are classified both as physical resources and soft resources, wherein the physical resources are not downloadable from the local servers and the soft resources are downloadable from the local servers.

Moreover, the references do not teach or suggest that each of the resources has at least one of the profiles associated therewith, and each of the profiles includes a description of the resource and a location of the associated resource, and wherein each of the profiles, when created, is assigned to a category.

Finally, the references do not teach or suggest a plurality of servers grouped into interconnected regional servers and local servers, wherein regional servers serve a region and hold one or more profiles for resources associated with the local servers within the region. There is no recognition of "regional servers" and "local servers" in the references, nor is there any

discussion of their respective functions of storing profiles in the regional servers and associating resources with the local servers within the region.

The novel limitations of the present invention allow for a client-server system that is more interchangeable and useful than those described in the prior art. Moreover, the various elements of the Appellant's claimed invention together provide operational advantages over the systems disclosed in the prior art. In addition, the Appellant's invention solves problems not recognized by the prior art.

Thus, the Appellant's attorney submits that independent claim 15 is allowable over Pisello, Miller and Terry.

Appellant's attorney also submits that dependent claims 16-22 are allowable over the cited references in the same manner as independent claim 15, because they are dependent on independent claim 15, and thus contain all the limitations of the independent claim. In addition, dependent claims 16-22 recite additional novel elements not shown by the cited references, which are discussed below.

#### IX. CONCLUSION

In light of the above arguments, Appellant's attorney respectfully submits that the cited references do not anticipate nor render obvious the claimed invention. More specifically, Appellant's claims recite novel physical features which patentably distinguish over any and all references under 35 U.S.C. §§ 102 and 103.



As a result, a decision by the Board of Patent Appeals and Interferences reversing the Examiner and directing allowance of the pending claims in the subject application is respectfully solicited.

Respectfully submitted,

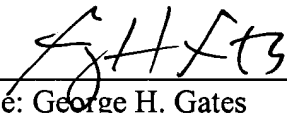
David M. Siefert

By his attorneys,

GATES & COOPER LLP

Howard Hughes Center  
6701 Center Drive West, Suite 1050  
Los Angeles, California 90045  
(310) 641-8797

Date: January 10, 2003

By:   
Name: George H. Gates  
Reg. No.: 33,500

GHG/io

G&C 30145.94-US-F1

## APPENDIX

15. A resource management system, comprising:
  - (a) a plurality of servers grouped into interconnected regional servers and local servers, wherein the regional servers serve a region and hold one or more profiles for resources associated with the local servers within the region;
  - (b) the resources being classified as physical resources and soft resources, wherein the physical resources are not downloadable from the local servers and the soft resources are downloadable from the local servers;
  - (c) each of the resources having at least one of the profiles associated therewith, wherein each of the profiles includes a description and a location of the associated resource, and wherein each of the profiles, when created, is assigned to a category; and
  - (d) one or more user computers interconnected with the regional and local servers, and including means for storing the profiles of the resources into one or more of the regional servers, means for searching the profiles stored in the regional servers by category, and means for requesting delivery of the resources associated with the local servers based on the searched profiles.
16. The system of claim 15, wherein the user computer further comprises means for storing the soft resources into one or more of the local servers.
17. The system of claim 15, wherein the user computer further comprises means for downloading the soft resources from one or more of the local servers.
18. The system of claim 15, wherein the regional servers further comprise means for storing a profile that contains information about a user of the user computers.
19. The system of claim 18, wherein the regional servers further comprise means for restricting the user's access to the resources based on the information contained in the profile.
20. The system of claim 15, wherein the means for searching further comprises means for performing a Boolean key-word search of the profiles stored in the regional servers.

21. The system of claim 15, wherein the means for searching further comprises means for ordering a search of any of the profiles to be performed at a future time.

22. The system of claim 15, wherein a plurality of collections of the profiles are each stored in different ones of the regional servers, and each of the collections contains substantially all of the profiles.